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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

BRANDON EATON BOYKIN, JR.,

Defendant and Appellant.

D056856

(Super. Ct. No. SCS233687)

APPEAL from a judgment of the Superior Court of San Diego County, Esteban Hernandez, Judge. Affirmed.

I.

INTRODUCTION

Brandon Eaton Boykin, Jr., pled guilty to one count of robbery, and admitted to personally using a firearm in the commission of the offense, as well as having suffered a prior strike conviction. The trial court sentenced Boykin to an aggregate term of seven years in prison, comprised of the low term of two years for the robbery, doubled as a

result of the prior strike, plus an additional three years for the firearm enhancement. We affirm.

II.

FACTUAL AND PROCEDURAL BACKGROUND¹

On September 4, 2009, Boykin entered an ARCO gas station convenience store and took a can of beer from the cooler. When Boykin and the store employee were alone, Boykin approached the register as if he was going to pay for the beer. Boykin asked the employee for a pack of cigarettes. After the employee retrieved the cigarettes and started to ring up the purchases, Boykin took a handgun from his waistband. Boykin pointed the gun at the employee and told her to open the register.

The store employee was unable to open the register. After the employee and Boykin tried a number of different methods to open the register, Boykin eventually told the employee to scan the beer in the hope that the register would open. The employee scanned the beer, but the register still failed to open. At that point, Boykin fled the store without taking any money.

Officers who investigated the incident retrieved the beer can that Boykin had placed on the store counter. The beer can was processed for fingerprints, and a thumbprint match was made to Boykin's right thumbprint.

¹ In light of Boykin's plea of guilty, there was no trial in this case. We therefore rely on the probation report's recitation of the facts of the underlying offenses.

On November 9, 2009, the People charged Boykin with one count of robbery, with the allegation that Boykin personally used a firearm in committing the robbery (Pen. Code, §§ 211, 12022.5, subd. (a)).² The People also alleged that Boykin had suffered a violent felony prison prior offense (§ 667.5, subd. (a)) and a prior strike offense (§§ 667, subds. (b)-(i), 1170.12, and 668).

On December 8, Boykin pled guilty to the robbery and the personal use of a firearm enhancement. Boykin also admitted having suffered a prior felony strike. In January 2010, the trial court sentenced Boykin to seven years in prison. Boykin timely appealed.

III.

DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U. S. 738, counsel refers to as possible, but not arguable, issues: (1) whether Boykin's guilty plea was constitutionally valid; (2) whether there existed a proper factual basis for the guilty plea; and (3) whether the trial court abused its discretion in sentencing Boykin to seven years in prison or in denying Boykin's request for prejudgment credits for the time he had been incarcerated.

² All statutory references are to the Penal Code.

We granted Boykin permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issues referred to by appellate counsel, has disclosed no reasonably arguable appellate issues. Boykin has been adequately represented by counsel on this appeal.

IV.

DISPOSITION

The judgment is affirmed.

AARON, J.

WE CONCUR:

HUFFMAN, Acting P. J.

McINTYRE, J.